

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division
Case Number: 02-22065-CIV-MORENO

IN RE: MANAGED CARE LITIGATION

MARTIN J. RUTT, D.D.S., and MICHAEL EGAN,
D.D.S., on behalf of themselves and other similarly
situated,

Plaintiffs,

vs.

ANTHEM HEALTH PLANS, INC., d/b/a ANTHEM
BLUE CROSS AND BLUE SHIELD OF
CONNECTICUT,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION, DENYING MOTION
TO DISMISS IN PART, AND DENYING AS MOOT MOTION FOR DEFAULT**

THE MATTER was referred to the Honorable Edwin G. Torres, United States Magistrate Judge for a Report and Recommendation on Defendant's Motion to Dismiss Plaintiffs' Second Amended Complaint (D.E. No. 63) and Plaintiffs' Motion for Default (D.E. No. 60). The Magistrate Judge filed a Report and Recommendation (D.E. No. 81) on March 31, 2011. The Court has reviewed the entire file and record. The Court has made a *de novo* review of the issues that the objections to the Magistrate Judge's Report and Recommendation present, and being otherwise fully advised in the premises, it is

ADJUDGED that United States Magistrate Judge Edwin G. Torres's Report and Recommendation (D.E. No. 81) on March 31, 2011 is **AFFIRMED** and **ADOPTED**. Accordingly, it is


ADJUDGED that:

(1) Defendant's Motion to Dismiss Plaintiffs' Second Amended Complaint (D.E. No. 63) is **DENIED in part** and **GRANTED in part**:

- a. Defendant's Motion is **DENIED** in its entirety as to Counts I, II, and III;
- b. Defendant's Motion is **GRANTED** as to Count IV and Plaintiffs' unjust enrichment claim is dismissed with prejudice.

(2) Plaintiff's Motion for Default (D.E. No. 60) is **DENIED as moot**.

DONE AND ORDERED in Chambers at Miami, Florida, this 27th day of April, 2011.


FEDERICO A. MORENO
CHIEF UNITED STATES DISTRICT JUDGE

Copies provided to:
United States Magistrate Judge Edwin G. Torres
Counsel of Record